

## EXHIBIT A

FILED

2009 MAR 20 AM 8:59

CLERK OF THE COURT  
JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

AQUA ILLINOIS, INC.

Plaintiffs,

-v-

STEFAN SALLER and SUSAN SALLER

Defendant

No.

08CH1370

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND  
MOTION FOR PRELIMINARY INJUNCTION**

NOW COMES Plaintiff, AQUA ILLINOIS, INC., by and through its attorneys, SPESIA, AYERS, & ARDAUGH, and for its Motion for a Temporary Restraining Order and Preliminary Injunction, against Defendants STEFAN SALLER and SUSAN SALLER, state as follows:

**I. MOTION FOR TEMPORARY RESTRAINING ORDER PURSUANT TO 735 ILCS 5/11-101.**

1. Plaintiff AQUA ILLINOIS, INC. (hereinafter "Aqua") is a corporation in good standing in the State of Illinois which provides potable water and sewer services to residential and commercial customers including the Village of University Park, Will County, Illinois.

2. Defendants STEFAN SALLER and SUSAN SALLER (hereinafter, "the Sallers") are owners of certain real property located at 24900 Western Avenue, University Park, Will County, Illinois ("the property").

3. The Subject Property abuts Aqua's sewer treatment plant. Personal property of Plaintiffs, including a water well, water pump and water lines, transverse the property that was installed by Aqua's predecessor. The well was drilled on November 9, 1971. The subject property was sold to the Sallers by Aqua's predecessor in 1992 (at the time, Mr. Saller was employed by Aqua's predecessor). From 2001 to 2003, substantial sums were paid by Aqua to improve the well. Subsequently, Mr. Saller has barred Aqua from entering the property to access the well.

4. On information and belief, Plaintiff believes that an easement exists pertaining to the well, pump, and water pipes. However, to date Plaintiff has been unable to locate that easement. Nevertheless, Plaintiff has a protected right in that it has an easement by implication and/or necessity and/or a prescriptive easement. Further, Plaintiff has expended substantial sums in upgrading the water well with the full knowledge and acquiescence of Mr. Saller.

5. On March 8, 2008, Aqua sent a final offer letter to the Sallers for the purchase of said property. The letter indicated that Aqua would begin condemnation proceedings if the good faith offer (based on an appraisal) was rejected. The final offer letter is attached hereto as Exhibit "A".

6. On March 19, 2008, Aqua received information that Mr. Saller had taken substantial steps in an effort to damage the water pipes and well, actions that would cost Aqua large sums of money to repair if and when the property was condemned. Specifically, for example, it was learned Mr. Saller is attempting to remove equipment from the well head with an estimated value ranging from

\$40,000 to \$60,000. The water line in question taps into the water system of University Park, Illinois, thus public safety is implicated.

7. An emergency temporary restraining order to maintain the status quo is necessary in this matter as the Plaintiffs would suffer irreparable harm if Defendant causes extensive damage to its property. Further, no adequate remedy at law exists in this situation where a public water system is endangered by the acts of one individual.

8. Based on the foregoing, the Plaintiff has property rights implicated by the actions of the Defendants and are likely to succeed on merits of an underlying action.

WHEREFORE, Plaintiff, AQUA ILLINOIS, INC., prays this honorable Court issue a 10 day temporary restraining order, enjoining Defendants from damaging the water well and water lines, or any related parts, and further requests this Court waive any requirement for a bond under these circumstances, until a hearing can be held on Plaintiff's motion for preliminary injunction.

## **II. PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION.**

9. Plaintiff adopts all facts and allegations of paragraphs 1-8 of Plaintiff's Motion for a Temporary Restraining Order, as if recited herein.

10. In addition to all of the reasons cited *supra*, which apply to the granting of a preliminary injunction as well as the temporary restraining order, Plaintiff submits that in balancing the equities the Court should find in favor of the Plaintiff.

11. First, Defendants have no right to damage the personal property of the Plaintiff. Second, upon information and belief, any tampering with the water pipes could potentially have an adverse affect on the area's water system.

WHEREFORE, Plaintiff, AQUA ILLINOIS, INC., prays this honorable Court issue a preliminary injunction enjoining Defendants from damaging the water well and water lines, or any related parts, and further requests this Court waive any requirement for a bond under these circumstances, and for any other relief the Court deems necessary.

Respectfully submitted,

SPESIA, AYERS & ARDUAGH:


BY: 

Attorney for Plaintiff

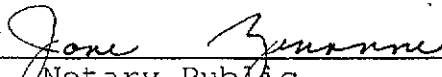
Jeffrey S. Taylor #06227171  
SPESIA, AYERS, & ARDAUGH  
1415 Black Road  
Joliet, Illinois 60435  
815-726-4311

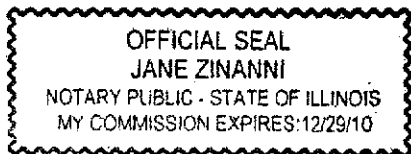
VERIFICATION

The undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters stated therein to be made upon information and belief, and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Terry Rakocy, President  
Aqua Illinois (Kankakee)

Subscribed and sworn to before  
me this <sup>19<sup>th</sup></sup> day of March, 2008.

  
\_\_\_\_\_  
Notary Public



SPESIA, AYERS  
&  
ARDAUGH

Attorneys at Law

March 4, 2008

1415 Black Road  
Joliet, Illinois 60435

Ph 815.726.4311

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Gabriel G. Orenic  
Michael R. Stiff  
Tricia M. Pellegrini

Of Counsel:  
Thomas M. Ewert  
Kent Slater

**VIA CERTIFIED MAIL**

Stefan and Susan Saller  
1629 Waterberry Drive  
Bourbonnais, Illinois 60914

**OFFER TO PURCHASE**

Dear Mr. & Mrs. Saller:

The public records indicate that you are the owner of or are an interested party in the following described property:

PARCEL 1: THE EAST 154 1/10 FEET OF THE SOUTH 213 1/2 FEET OF THE NORTH 990 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 13 (EXCEPT THAT PART DEDICATED TO THE PEOPLE OF THE STATE OF ILLINOIS) IN TOWNSHIP 34 NORTH, AND IN RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS.

PARCEL 2: THE SOUTH 213 1/2 FEET OF THE NORTH 990 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 13, EXCEPTING THEREFROM THE EAST 154 1/10 FEET (EXCEPT THAT PART DEDICATED TO THE PEOPLE OF THE STATE OF ILLINOIS) IN TOWNSHIP 34 NORTH, AND IN RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN WILL COUNTY, ILLINOIS.

PIN Nos. 21-14-13-208-015 (Parcel 1) and 21-14-13-208-014 (Parcel 2)  
Common Address: 24900 Western Avenue, University Park, Illinois

Aqua Illinois desires to acquire this property for purposes of use of the well and water lines located on the property, along with access thereto and other uses consistent with Aqua's operations.

**Exhibit "A"**

# SPESIA, AYERS & ARDAUGH

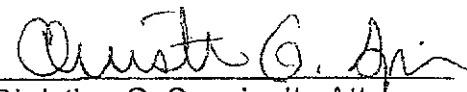
ATTORNEYS AT LAW

Aqua Illinois hereby offers you the sum of \$135,000 for the above-described property, free and clear of all claims of other parties, liens, taxes and encumbrances. A copy of the appraisal showing the basis for the offer is attached hereto. If you are a displaced person as defined under federal and state law, Aqua will pay reasonable relocation costs to the extent required by law.

If you wish to discuss this offer, please contact the undersigned for that purpose. Unless we hear from you or your attorney within fourteen (14) days from the date of this letter, we shall assume you have rejected the offer, and Aqua will proceed to condemn the property.

Sincerely,

Aqua Illinois, Inc.

By:   
Christian G. Spesia, Its Attorney

CGS/rlb  
Attachment

Certified Mail - Return Receipt No. 7007 0220 0001 1809 6708



IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS

AQUA ILLINOIS, INC.

Plaintiffs,

-v-

STEFAN SALLER and SUSAN SALLER

Defendant

No.

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**COMPLAINT**

NOW COMES Plaintiff, AQUA ILLINOIS, INC., by and through its attorneys SPESIA, AYERS, & ARDAUGH, and for its Complaint against Defendants STEFAN SALLER and SUSAN SALLER, state as follows:

**INTRODUCTION**

1. Plaintiff AQUA ILLINOIS, INC. (hereinafter "Aqua") is a corporation in good standing in the State of Illinois which provides sewer and water services to residential and commercial customers including the Village of University Park, Will County, Illinois.

2. Defendants STEFAN SALLER and SUSAN SALLER (hereinafter, "the Sallers") are owners of certain real property located at 24900 Western Avenue, University Park, Will County, Illinois ("the property").

3. The Subject Property abuts Aqua's sewer treatment plant. Personal property of Plaintiff, including a water well, water pump and water lines, was installed by Aqua's predecessor and transverses the subject property. The well

was drilled on November 9, 1971. The subject property was sold to the Sallers by Aqua's predecessor in two conveyances in or about 1986 and 1992, respectively. At the time of each conveyance Mr. Saller was employed by Aqua's predecessor. Attached as Exhibit "A" is the legal description of the subject property. From 2001 to 2003, in excess of \$175,000 was spent by Aqua for improvements to the well. Subsequently, Mr. Saller has barred Aqua from entering the property to access the well.

4. On March 8, 2008, Aqua sent a final offer letter to the Sallers for the purchase of said property. The letter indicated that Aqua would begin condemnation proceedings if the good faith offer (based on an appraisal) was rejected. The final offer letter is attached hereto as Exhibit "B".

5. On March 19, 2008, Aqua received information that Mr. Saller had taken substantial steps in an effort to damage the water pipes and well, actions that would cost Aqua large sums of money to repair. On information and belief, Mr. Saller has attempted to remove equipment from the well head with an estimated value ranging from \$40,000 to \$60,000. The water line in question taps into the water system of University Park, Illinois.

#### **COUNT I**

##### **(Quiet Title - Easement by Necessity)**

6. Plaintiff adopts all the allegations of paragraphs 1 to 5 of Plaintiff's Complaint as if repeated herein.

7. The property was previously owned by Aqua's predecessor corporation, and the real property was not granted to Plaintiffs until 1986 and

1992 (the personal property, including the pumps, well and pipe, were not part of the transaction).

8. The well and pipe system at issue has been in place for over 20 years. The Sallers were aware of Aqua's pre-existing use by virtue of Mr. Sallers' employment with the predecessor company; and, were aware of Aqua's intention to continue this important and necessary use of the land for access and maintenance of the water system at the time of conveyance of the property.

9. Further, Defendants allowed access to the well and pipe system for substantial and expensive (approximately \$175,000 worth of) improvements in the years of 2001 through 2003.

10. Aqua's use of the property for access to its personal property has been apparent, obvious, and continuous in nature since 1971, and, by implication, since Defendants came into possession of the property.

11. Aqua's access to the property is necessary in order for it to preserve the ability to maintain and utilize the water well, water pump, and water pipes. Further, the water pipes run into the University Park water system and Aqua needs access to ensure the area's water supply is not adversely impacted by the Sallers' use of the property.

WHEREFORE, Plaintiff, AQUA ILLINOIS, INC., asks this honorable Court to quiet title, recognizing the existence of Aqua Illinois, Inc.'s easement for access and use of the water well, water pump, and water pipes, and for any other relief this Court deems necessary.

COUNT II  
(Property Damage)

12. Plaintiff adopts all facts and allegations of paragraphs 1 through 11 of Plaintiff's Complaint as if recited herein.

13. Upon information and belief, Mr. Saller has attempted to remove a well head valued at an estimated \$40,000 to \$60,000.

14. The well and its component parts are the property of Aqua.

15. Any attempt to remove the component parts of the well will result in damage to the property of Aqua.

WHEREFORE, Plaintiff, AQUA ILLINOIS, INC. prays this honorable Court for damages equal to the amount of damage to its personal property, plus costs, and for any other relief this Court deems necessary.

Respectfully submitted,

SPESIA, AYERS & ARDUAGH:

BY: \_\_\_\_\_

Attorney for Plaintiff

Jeffrey S. Taylor #06227171  
SPESIA, AYERS, & ARDAUGH  
1415 Black Road  
Joliet, Illinois 60435  
815-726-4311



31A1 PFS

THE ABOVE SPACE FOR RECORDER'S USE ONLY

THIS INDENTURE, made this 27th day of March, 1986, between CHICAGO TITLE AND TRUST COMPANY, a corporation of Illinois, as Trustee under the provisions of a deed or deeds in trust, duly recorded and delivered to said company in pursuance of a trust agreement dated the 23rd day of March, 1984, and known as Trust Number 1084812 party of the first part, and STEFAN ROY SALLER,

WITNESSETH, That said party of the first part, in consideration of the sum of TEN (\$10.00) ----- DOLLARS, and other good and valuable considerations in hand paid, does hereby convey and quitclaim unto said party of the second part, the following described real estate, situated in Will County, Illinois, to-wit:

The East 154 1/10 feet of the Parcel described as follows:

The South 213 1/2 feet of the North 990 feet of the East 1/2 of the Northeast 1/4 of Section 13, (except that part dedicated to the people of the State of Illinois) in Township 34 North, and in Range 13, East of the Third Principal Meridian.

R66-19442  
CHICAGO TITLE INSURANCE CO.  
JOLIET, ILLINOIS

MAY 21 PM 3:22

14-13-208-009

together with the tenements and appurtenances thereto belonging, TO HAVE AND TO HOLD the same unto said party of the second part, and to the proper use, benefit and behoof forever of said party of the second part.

This deed is executed pursuant to and in the exercise of the power and authority granted to and vested in said trustee by the terms of said deed or deeds in trust delivered to said trustee in pursuance of the trust agreement above mentioned. This deed is made subject to the lien of every trust deed or mortgage (if any there be) of record in said county given to secure the payment of money, and remaining unreleased at the date of the delivery hereof.

IN WITNESS WHEREOF, said party of the first part has caused its corporate seal to be hereto affixed, and has caused its name to be signed to these presents by its Assistant Vice President and attested by its Assistant Secretary, the day and year first above written.

CHICAGO TITLE AND TRUST COMPANY As Trustee as aforesaid,

By *Margaret A. Knutson* Assistant Vice-President

Attest *Ann S. Hargis* Assistant Secretary



STATE OF ILLINOIS  
COUNTY OF COOK



I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named Assistant Vice President and Assistant Secretary of the CHICAGO TITLE AND TRUST COMPANY, Grantor, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said Company, caused the corporate seal of said Company to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said Company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal

Date 3-28-86

*Kimberly A. Mann*

Notary Public

NAME STEVEN TONGREN  
STREET 103 E. MAIN RD. GALE 540  
CITY PEOTOME, ILL. 60468  
OR  
INSTRUCTIONS

FOR INFORMATION ONLY  
INSERT STREET ADDRESS OF ABOVE  
DESCRIBED PROPERTY HERE

*103 E. Main Rd. Peotome, Ill. 60468*

THIS INSTRUMENT WAS PREPARED BY:

111 West Washington St  
Chicago, Illinois 60602

CHICAGO TITLE INSURANCE CO.

Document Number

Exhibit "A"

SPESIA, AYERS  
&  
ARDAUGH

Attorneys at Law

March 4, 2008

1415 Black Road  
Joliet, Illinois 60435

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**VIA CERTIFIED MAIL**

Stefan and Susan Saller  
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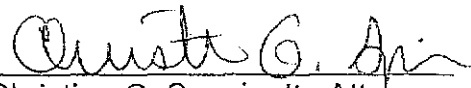
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If you wish to discuss this offer, please contact the undersigned for that purpose. Unless we hear from you or your attorney within fourteen (14) days from the date of this letter, we shall assume you have rejected the offer, and Aqua will proceed to condemn the property.

Sincerely,

Aqua Illinois, Inc.

By:   
Christian G. Spesia, Its Attorney

CGS/rfb  
Attachment

Certified Mail - Return Receipt No. 7007 0220 0001 1809 6708